

Effective 5/12/2015

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11-13-315 Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c)

(i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) "Taxed interlocal entity" includes an interlocal entity that:

(A) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d)

(i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(7)

(a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

- (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and
 - (ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.
- (c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and (ii):
 - (i) in a manner described in Subsection 63A-3-405(3); and
 - (ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.
- (d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:
 - (i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and
 - (ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.
- (8)
 - (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.
 - (b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.
- (9)
 - (a) A taxed interlocal entity is not subject to the provisions of Subsection 11-13-204(1)(a)(i) or (c).
 - (b) In addition to the powers provided in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.